

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ARIZONA HALL, JR.,

Petitioner,

v.

CHRIS KOSTER,

Respondent,

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No. 4:16-CV-1528 AGF

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's "motion for disqualification of presiding judge." For the reasons set forth below, the motion is denied.

Petitioner seeks a writ of habeas corpus. On November 10, 2016, the Court ordered him to show cause why his petition should not be dismissed as time-barred. Instead of responding to the merits of the Order, Petitioner claims that the Court is biased against him because of his race. Petitioner argues that any judge who is not of his race is biased against him.

Section 455(a) provides that a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Impartiality is judged objectively: "Would the average person, knowing the facts alleged by the part[y] seeking disqualification, question the Judge's impartiality, and, if so, would the question be reasonable?" *O'Bannon v. Union Pac. R.R. Co.*, 169 F.3d 1088, 1091 (8th Cir. 1999). Stated differently, the test is "whether the judge's impartiality might reasonably be questioned by the average person on the street who knows all the relevant facts of a case." *Moran v. Clarke*, 296 F.3d 638, 648 (8th Cir. 2002) (quoting *In re Kan. Pub. Employees Ret. Sys.*, 85 F.3d 1353, 1358 (8th Cir. 1996)). If this test is not satisfied, judges have a duty to decide the cases and controversies which come before them. *See Perkins*

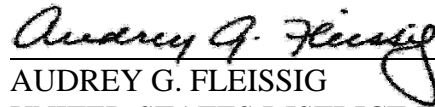
v. Spivey, 911 F.2d 22, 28 (8th Cir. 1990); *see also Cheney v. U.S. Dist. Ct.*, 541 U.S. 913, 916 (2004) (memorandum of Scalia, J.). “Frivolous and improperly based suggestions that a judge recuse should be firmly declined. *Maier v. Orr*, 758 F.2d 1578, 1583 (9th Cir. 1985).

Petitioner’s allegations are baseless. Ruling against a litigant, in itself, does not demonstrate bias. Therefore, the motion to disqualify is denied.

Accordingly,

IT IS HEREBY ORDERED that Petitioner’s “motion for disqualification of presiding judge” [ECF No. 12] is **DENIED**.

Dated this 20th day of December, 2016.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE